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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/892,225

Applicant(s)

YAMAZAKI ET AL.

Examiner

Matthew J. Song

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7, 15-19, 23, 29-31 and 35-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7, 15-19, 23, 29-31 and 35-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/20/2007 has been entered.

Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1722

3. Claims 5-7, 23, 35-41, 69, 70, 77, 78, 81-84, 85-86, and 89-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Translation has been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151).

In a method of solid growth, Noguchi et al teaches an amorphous layer 2 made of SiGe or Ge is formed on a substrate 1 and an amorphous silicon layer 3 is formed on the layer 2. Noguchi et al also teaches the solid growth temperature is lowered because of the sequentially laminated starting material. Noguchi et al also teaches amorphous layer is crystallized by heat treating for a predetermined time to form polycrystalline layers 21, 31 (Abstract).

Noguchi et al teaches using a heat treatment to crystallize the amorphous SiGe and amorphous Si layer to polycrystalline layers. Noguchi et al does not teach crystallizing the amorphous films by irradiated with an excimer laser light.

In a method of fabricating a polycrystalline silicon-germanium thin film transistor (TFT), note entire reference, Shimizu teaches forming an amorphous silicon layer, an amorphous germanium layer and converting the amorphous silicon layer and the amorphous germanium layer into polycrystalline layers (col 3, ln 1-25). Shimizu also discloses the amorphous silicon and germanium layers are formed by plasma CVD (col 3, ln 26-40 and Example 2). Shimizu also discloses both of the amorphous layers are converted into polycrystalline layer by annealing using an ultraviolet laser light, such as an excimer laser (col 3, ln 41-67 and Example 3). Shimzu also discloses a source electrode 2 and a drain electrode 3 and an amorphous silicon film used as an ohmic contact layer 4, this clearly suggests applicant's insulating film covering an electrode, and thereafter forming an amorphous silicon and amorphous germanium layer, which are crystallized by laser light (col 5, ln 1-67). Shimzu also teaches the application of heat or light to

Art Unit: 1722

promote recrystallization of amorphous germanium will result in progress of recrystallization of the amorphous silicon layer at a lower temperature than that by conventional methods and laser annealing can be replaced with heating to a temperature greater than 600°C (col 3, ln 64 to col 4, ln 20 and col 6, ln 20-35), this is a teaching that the application of heat or light are equivalent methods of recrystallization of amorphous SiGe and Si layers. Shimizu also teaches forming an amorphous silicon layer having a thickness of 80 nm and a germanium layer having a thickness of 20 nm (col 6, ln 30-50).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Noguchi et al's heat treatment by using an excimer laser annealing, as taught by Shimzu, because substitution of known equivalents for the same purpose is held to be obvious (MPEP 2144.06).

In a method of forming a semiconductor, note entire reference, Tsutsu teaches forming a semiconductor layer of $\text{Si}_x\text{Ge}_{1-x}$ ($0 < x < 1$) (col 2, ln 40-50). Tsutsu also teaches the semiconductor is annealing with an energy beam or heat treating at 550°C to recrystallize the amorphous semiconductor layer into a polycrystalline layer (Example 1, Example 2, and col 3, ln 65 to col 3, ln 45). Tsutsu teaches excimer laser light used to crystallize an amorphous silicon germanium film (col 4, ln 35-50).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Noguchi et al's heat treatment by using an excimer laser annealing, as taught by Tsutsu, because substitution of known equivalents for the same purpose is held to be obvious (MPEP 2144.06).

Art Unit: 1722

The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teach all of the limitations of claim 5, as discussed previously, except the concentration of germanium is within a range of 0.1 atoms% to 10 atom%. Concentration is well known in the art to be a result effective variable and Noguchi et al teaches the concentration of Germanium is a result effective variable, as evidenced in Figure 2 of Noguchi et al. A lower germanium concentration would be desirable to limit the amount of impurities, which can diffuse through the device during high temperature processes. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by optimizing the concentration of germanium to obtain the claimed range by conducting routine experimentation of a result effective variable. Furthermore, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. (In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235(CCPA 1955)).

Referring to claim 6, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches forming electrode, insulating films and crystallizing amorphous films ('541 Fig 1 and '769 Fig 4).

Referring to claims 7, 23, and 37-38 the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches a silicon film ('769 Fig 4c).

Referring to claims 35-36 and 39-40, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches introducing germanium into the semiconductor film to promote crystallization by reducing the crystallization temperature ('769 Fig 2).

Art Unit: 1722

Referring to claim 41, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches irradiation with laser light to convert an amorphous film to polycrystalline, this clearly suggests irradiating to obtain a higher crystallinity.

Referring to claims 55, 56, 59 and 60-62, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu is silent to the concentration of oxygen, nitrogen and carbon in the first and second amorphous film is less than $1 \times 10^{19}/\text{cm}^3$. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by producing films with low amount of impurities such as oxygen, carbon and nitrogen below a value of $1 \times 10^{19}/\text{cm}^3$ which would alter the electrical properties of the film. Furthermore, to obtain concentrations higher than $1 \times 10^{19}/\text{cm}^3$ would require some type of intentional doping. Since the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu does not teach doping; the films are expected to have concentrations of oxygen, carbon and nitrogen below $1 \times 10^{19}/\text{cm}^3$.

Referring to claims 69-70, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu does not teach the first film is thinner than the second film. Film thicknesses are known in the art to affect device characteristics. Also, the films depicted in Figure 4 of Noguchi et al are approximately equal in thickness. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by having a first film thinner than a second film to obtain desired device characteristics.

Art Unit: 1722

Referring to claim 77-78 and 85-86, the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches a gate insulting film 7 on the polycrystalline layers ('541 col 5, ln 1-10 and '151 col 7, ln 15-30).

4. Claims 15-17, 29, 63-68, 71, 72, 79, 80, 87 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Abstract and English Translation have been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151), as applied to claims 5-7, 23, 35-41, 69, 70, 77, 78, 81-84, 85-86, and 89-92 above, and further in view of Applicant's Admitted Prior Art (Admission).

The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches all of the limitations of claim 15, as discussed previously, except introducing a metal element after forming the second amorphous semiconductor film.

Admission teaches a technique for forming a crystalline silicon film, by introducing a metal element, such as nickel, which promotes crystallization of silicon into an amorphous silicon film and fabricating a crystalline silicon film at a heat treatment lower than conventional temperature, note pages 3-4 of the specification, this clearly suggests introducing a metal element after forming the second amorphous layer because the second amorphous layer is silicon. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by introducing a metal into the amorphous silicon and the amorphous silicon germanium layer to promote crystallization of the layers which are to be crystallized and reduce the heat treatment temperature, as taught by Admission.

Art Unit: 1722

Referring to claim 63-68, Admission teaches nickel.

Referring to claims 71-72, the combination of prior art references does not teach the first film is thinner than the second film. Film thicknesses are known in the art to affect device characteristics. Also, the films depicted in Figure 4 of Noguchi et al are approximately equal in thickness. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of prior art references by having a first film thinner than a second film to obtain desired device characteristics.

Referring to claim 79-80 and 87-88, the combination of prior art references teaches a gate insulting film 7 on the polycrystalline layers ('541 col 5, ln 1-10 and '151 col 7, ln 15-30).

5. Claims 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English translation has been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151) as applied to claims 5-7, 23, 35-41, 69, 70, 77, 78, 81-84, 85-86, and 89-92 above, and further in view of Zhang et al (US 5,578,520).

The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches all of the limitations of claim 19, as discussed previously in claim 15. The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu is silent to a CVD apparatus with a turbo molecular pump used in an exhaust means connected to a reaction chamber.

In a plasma CVD apparatus for depositing amorphous silicon, Zhang et al teaches a CVD apparatus 2, where a vacuum evacuation apparatus comprising a turbo molecular pump and a rotary pump connected in series, so that impurity concentration inside the chamber may be

Art Unit: 1722

maintained as low as possible (Fig 2 and col 6, ln 1-67). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu, or the combination of Noguchi et al and Tsutsu with Zhang et al to maintain the impurity concentration in the chamber as low as possible.

Also, Applicant is reminded apparatus limitations, unless they affect the process in a manipulative sense, may have little weight in process claims (In re Tarczy-Hornoch 158 USPQ 141).

6. Claims 42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Translation has been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151), as applied to claims 5-7, 23, 35-41, 69, 70, 77, 78, 81-84, 85-86, and 89-92 above, and further in view of Maekawa (US 6,066,547).

The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches all of the limitations of claim 18, as discussed previously. The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu is silent to irradiating with a light from one selected from the group consisting of a halogen lamp, a xenon lamp, a mercury lamp, a metal halide lamp as a light source.

In a method of forming a thin film transistor, note entire reference, Maekawa teaches a transparent substrate of glass or quartz, a step 90 for providing an amorphous film, where silicon, germanium or silicon-germanium alloys are typical amorphous films, for forming a thin film transistor, a step 92 for depositing a layer of an amorphous film, a step 94 for introducing a transition metal to induce rapid crystallization of the amorphous film and a step 96 for rapid

Art Unit: 1722

thermal annealing to convert the amorphous film into a polycrystalline film (Fig 20 and col 11, ln 1-67). Maekawa also teaches the rapid thermal annealing step includes annealing with a tungsten-halogen lamp, Xe arc lamp and an excimer laser (col 12, ln 1-50). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu, or the combination of Noguchi et al and Tsutsu with Maekawa because substitution of known equivalents for the same purpose is held to be obvious (MPEP 2144.06).

7. Claims 19 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Abstract and English Translation have been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151) and further in view of Applicant's Admitted Prior Art (Admission) as applied to claims 15-17, 29, 63-68, 71, 72, 79, 80, 87 and 88 above, and further in view of Zhang et al (US 5,578,520).

The combination of Noguchi et al, Shimizu and Admission or the combination of Noguchi et al, Tsutsu and Admission teaches all of the limitations of claim 19, as discussed previously in claim 15. The combination of Noguchi et al, Shimizu and Admission or the combination of Noguchi et al, Tsutsu and Admission is silent to a CVD apparatus with a turbo molecular pump used in an exhaust means connected to a reaction chamber.

In a plasma CVD apparatus for depositing amorphous silicon, Zhang et al teaches a CVD apparatus 2, where a vacuum evacuation apparatus comprising a turbo molecular pump and a rotary pump connected in series, so that impurity concentration inside the chamber may be maintained as low as possible (Fig 2 and col 6, ln 1-67). It would have been obvious to a person

Art Unit: 1722

of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al, Shimizu and Admission, or the combination of Noguchi et al, Tsutsu and Admission to maintain the impurity concentration in the chamber as low as possible.

Also, Applicant is reminded apparatus limitations, unless they affect the process in a manipulative sense, may have little weight in process claims (In re Tarczy-Hornoch 158 USPQ 141).

8. Claims 18 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Abstract and English Translation have been provided, and Shimizu (US 5,753,541) or Tsutsu (US 6,118,151), and further in view of Applicant's Admitted Prior Art (Admission), in view of, as applied to claims 15-17, 29, 63-68, 71, 72, 79, 80, 87 and 88 above, and further in view of Maekawa (US 6,066,547).

The combination of Noguchi et al, Shimizu and Admission, or the combination of Noguchi et al, Tsutsu and Admission teaches all of the limitations of claim 18, as discussed previously. The combination of Noguchi et al, Shimizu and Admission is silent to irradiating with a light from one selected from the group consisting of a halogen lamp, a xenon lamp, a mercury lamp, a metal halide lamp as a light source.

In a method of forming a Thin film transistor, note entire reference, Maekawa teaches a transparent substrate of glass or quartz, a step 90 for providing an amorphous film, where silicon, germanium or silicon-germanium alloys are typical amorphous films, for forming a thin film transistor, a step 92 for depositing a layer of an amorphous film, a step 94 for introducing a transition metal to induce rapid crystallization of the amorphous film and a step 96 for rapid

Art Unit: 1722

thermal annealing to convert the amorphous film into a polycrystalline film (Fig 20 and col 11, ln 1-67). Maekawa also teaches the rapid thermal annealing step includes annealing with a tungsten-halogen lamp, Xe arc lamp and an excimer laser (col 12, ln 1-50). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al, Shimizu and Admission, or the combination of Noguchi et al, Tsutsu and Admission because substitution of known equivalents for the same purpose is held to be obvious (MPEP 2144.06).

9. Claims 47, 48, and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Translation has been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151) as applied to claims 5-7, 23, 35-41, 69, 70, 77, 78, 81-84, 85-86, and 89-92 above, and further in view of Kunii (JP 04-163910), an English Abstract has been provided, or further in view of Cho (JP 11-340473), an English Abstract has been provided.

The combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu teaches all of the limitations of claim 47, as discussed previously in claim 5. The combination of Noguchi et al and Shimizu, or the combination of Noguchi et al and Tsutsu is silent to patterning before crystallizing.

In a method of forming a semiconductor device, Kunii teaches an amorphous si thin film is formed and etched into a pattern for a thin film transistor. Kunii also teaches the film is subjected to laser annealing (Abstract). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or

Art Unit: 1722

the combination of Noguchi et al and Tsutsu by patterning after forming the layers, as taught by Kunii to form a plurality of semiconductor devices on a single wafer.

In a method of forming a thin film transistor, Cho teaches an amorphous si thin film is formed and subjected to specified etching before polycrystallizing by laser annealing, this reads on applicant's patterning (Abstract). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by patterning after forming the layers, as taught by Cho, to form a plurality of semiconductor devices on a single wafer.

10. Claims 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 04-168769), where an English Abstract and English Translation have been provided, in view of Shimizu (US 5,753,541) or Tsutsu (US 6,118,151), and further in view of Applicant's Admitted Prior Art (Admission) as applied to claims 15-17, 29, 63-68, 71, 72, 79, 80, 87 and 88 above, and further in view of Kunii (JP 04-163910), an English Abstract has been provided, or further in view of Cho (JP 11-340473), an English Abstract has been provided.

The combination of Noguchi et al, Shimizu and Admission or the combination of Noguchi et al, Tsutsu and Admission teaches all of the limitations of claim 49, as discussed previously in claim 15. The combination of Noguchi et al, Shimizu and Admission or the combination of Noguchi et al, Tsutsu and Admission is silent to patterning before crystallizing.

In a method of forming a semiconductor device, Kunii teaches an amorphous Si thin film is formed and etched into a pattern for a thin film transistor. Kunii also teaches the film is subjected to laser annealing (Abstract). It would have been obvious to a person of ordinary skill

Art Unit: 1722

in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by patterning after forming the layers, as taught by Kunii to form a plurality of semiconductor devices on a single wafer.

In a method of forming a thin film transistor, Cho teaches an amorphous Si thin film is formed and subjected to specified etching before polycrystallizing by laser annealing, this reads on applicant's patterning (Abstract). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Noguchi et al and Shimizu or the combination of Noguchi et al and Tsutsu by patterning after forming the layers, as taught by Cho, to form a plurality of semiconductor devices on a single wafer.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 5-7, 15-16, 19, 31, and 35-68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 50-51, 59-60, 66 of U.S. Patent No. 6,482,684 in view of Noguchi et al (JP 04-168769), where an English Abstract

Art Unit: 1722

and English Translation have been provided, and Applicant's Admitted Prior Art (Admission).

Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between the claims of the instant application and US 6,482,684 is the instant claims first amorphous layer comprising germanium and a second amorphous semiconductor layer, where US 6,482,684 claims an amorphous semiconductor film and forming a film comprising germanium, which is inherently amorphous because the film is formed on an amorphous film using conventional deposition techniques, i.e. plasma CVD.

US 6,482,684 also does not claim a silicon and germanium containing film wherein a concentration of germanium is within a range of 0.1 atom% to 10 atom% or the silicon layer is formed on a Silicon Germanium layer.

In a method of solid growth, Noguchi et al teaches a first amorphous layer 2 made of SiGe or Ge is formed on a substrate 1 and a second amorphous silicon layer 3 is formed on the layer 2. Noguchi et al also teaches the solid growth temperature is lowered because of the sequentially laminated starting material (Abstract). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify US 6,482,684 by using the sequentially laminated amorphous SiGe and amorphous Si layers taught by Noguchi et al to lower the solid growth temperature of the amorphous Si layer, which is desirable.

The combination of US 6,482,684 and Noguchi et al teaches all of the limitations of claim 5, as discussed previously, except the concentration of germanium is within a range of 0.1 atoms% to 10 atom%. Concentration is well known in the art to be a result effective variable and Noguchi et al teaches the concentration of Germanium is a result effective variable, as evidenced in Figure 2. A lower germanium concentration would be desirable to limit the amount of

Art Unit: 1722

impurities, which can diffuse through the device during high temperature processes. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of US 6,482,684 and Noguchi et al by optimizing the concentration of germanium to obtain the claimed range by conducting routine experimentation of a result effective variable.

Referring to the limitation requiring the combined thickness of the first and second amorphous films is within a range of 20-100 nm, thickness within the claimed ranges are conventionally used in the art to produce semiconductor devices, as evidenced by Shimizu (US 5,753, 541) which teaches a first film being 80 nm thick and a second film which is 20 nm thick (col 6, ln 25-50) for a total of 100 nm. Therefore, having combined thickness of 20-100 nm would have been obvious to one of ordinary skill in the art because the thickness are within the known ranges typically used to form semiconductor devices. Furthermore, changes in size are held to be *prima facie* obvious (MPEP 2144.04).

Referring to claim 15-16, the combination of US 6,482,684 and Noguchi et al does not teach introducing a metal element after forming the second amorphous semiconductor film. Admission teaches a technique for forming a crystalline silicon film, by introducing a metal element, such as nickel, which promotes crystallization of silicon into an amorphous silicon film and fabricating a crystalline silicon film at a heat treatment lower than conventional temperature, note pages 3-4 of the specification, this clearly suggests applicant's introducing a metal element after forming the second amorphous layer because the second amorphous layer is silicon. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of US 6,482,684 and Noguchi et al by introducing a metal into the

Art Unit: 1722

amorphous silicon to promote crystallization and reduce the heat treatment temperature, as taught by Admission.

Referring to claims 19 and 31, Applicant is reminded apparatus limitations, unless they affect the process in a manipulative sense, may have little weight in process claims (In re Tarczy-Hornoch 158 USPQ 141).

Referring to claim 42-54, patterning is obvious in the semiconductor industry to obtain a plurality of independent product within a single wafer.

Referring to claims 55-62, the combination of US 6,482,684, Noguchi et al and Admission is silent to the concentration of oxygen, nitrogen and carbon in the first and second amorphous film is less than $1 \times 10^{19}/\text{cm}^3$. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of US 6,482,684, Noguchi et al and Admission by producing films with low amount of impurities such as oxygen, carbon and nitrogen below a value of $1 \times 10^{19}/\text{cm}^3$ which would alter the electrical properties of the film. Furthermore, to obtain concentrations higher than $1 \times 10^{19}/\text{cm}^3$ would require some type of intentional doping. Since the combination of US 6,482,684, Noguchi et al and Admission does not teach doping, the films are expected to have concentrations of oxygen, carbon and nitrogen below $1 \times 10^{19}/\text{cm}^3$.

Response to Arguments

13. Applicant's arguments with respect to claims 69-92 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 1722

14. Applicant's arguments filed 2/20/2007 have been fully considered but they are not persuasive.

Applicant's argument that the claimed concentration range of 0.1 atom% to 10 atom% is noted but is not found persuasive. The cited passage of applicant's specification fails to show an unexpected result or criticality. The cited passage merely states:

“a crystalline semiconductor film which exhibits a high orientation with respect to the {101} plane is achieved not only by the addition of germanium at a concentration which is in the range of 0.1-10 atomic%, but also by the synergistic effect of the processing of adjusting the concentration of each element, such as oxygen, nitrogen, and carbon contained in the film to less than $1 \times 10^{19}/\text{cm}^3$ and the processing of setting the thickness of the crystalline semiconductor film within the range of 20-100 nm so that crystal growth predominates in a direction parallel to the substrate surface”

First, there is no criticality established because there is no comparative data to support criticality. In other words, there is no showing that a {101} plane cannot be achieved at a germanium concentration of 10.1 atomic percent or at a concentration of 0.09 atomic percent. Second, the passage merely states that a synergistic effect is achieved with germanium at 0.1-10%, but does not state that a synergistic effect cannot be achieved at other concentrations. Third, the argument is not within the scope of the instantly claimed invention. The instantly claimed invention does not require a crystalline semiconductor film which exhibits a high orientation with respect to the {101} plane. The claim is broader because other orientations are possible if the other synergistic parameters are not within the ranges disclosed by applicant. The instantly claimed invention merely requires a concentration of germanium that is known in the art to be used in the manufacturing of semiconductor devices, note Tsutsu (US 6,118,151) which teaches $\text{Si}_x\text{Ge}_{1-x}$ ($0 < x < 1$). Even if the cited passage is taken at face value, the passage fails to show criticality of the claimed range for the reasons discussed. It is also noted that no further

Art Unit: 1722

support, evidence or comparative data is found in the 125 pages of the specification or in the 45 pages of drawings in the instant application, besides the passage cited by applicant on page 35 of the specification.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fujiwara (US 5,879,976) teaches an amorphous Si film crystallized using laser annealing (col 5, ln 40-65).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Song whose telephone number is 571-272-1468. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1722

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Matthew J Song
Examiner
Art Unit 1722

MJS
April 27, 2007


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